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OFFICE OF PETITIONS

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In re Application of :
Fritz Lauper :
Application No. 09/446,538 :
Filed: December 27, 1999 :
Attorney Docket No. 990372 :
Title: METHOD AND DEVICE FOR CONTROLLING :
THE MOVEMENT OF A TEEMING LADLE :
HAVING A LOW TEEMING HEIGHT IN A :
TEEMING INSTALLATION DEVICE :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.137(a), filed on June 5, 2002, which is properly treated as a petition under 37 C.F.R. §1.181¹ to withdraw the holding of abandonment.

The petition under 37 C.F.R. §1.181(a) is **GRANTED**.

The above-identified application became abandoned for failure to submit a proper reply to the non-final Office Action, mailed May 21, 2001, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 22, 2002. A Notice of Abandonment was mailed on January 15, 2002.

Petitioner submits that a proper reply was indeed submitted, and not received by the Office. Along with the petition under 37 C.F.R. §1.181(a), the petitioner has submitted a statement of facts from the attorney of record and a copy of the amendment transmittal letter, which was purportedly sent in a timely manner.

It is noted that the amendment transmittal letter contains a certificate of mailing dated November 5, 2001. 37 C.F.R. §1.8(b) sets forth:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the

¹ As such, no petition fee is required. If the petitioner wishes to have the \$130.00 petition fee refunded, he should submit a request for refund to the Office of Finance. A copy of this decision should accompany any such request. The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Commissioner of Patents and Trademarks, Box 17, Washington, DC 20231. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission.

As such, it is decided that the Issue Fee Transmittal was indeed sent on November 5, 2001, and was either never received by the Office or received and subsequently misplaced. In view thereof, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

The application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy